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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,355	07/14/2003	David Albanese	DA-P0001	1354
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DALINA LAW GROUP, P.C. 7910 IVANHOE AVE. #325 LA JOLLA, CA 92037			EXAMINER MCCORMICK, GABRIELLE A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/604,355	Applicant(s) ALBANESE, DAVID	
	Examiner GABRIELLE MCCORMICK	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☒ Claim(s) 1-61 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/14/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on July 14, 2003.
2. Claims 1-61 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on July 14, 2003 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Objections

4. Claims 1-61 is objected to for minor informalities.
5. Claim 1 is objected to for the inclusion of the phrase, "What is claimed is:". This phrase is used to precede the listing of the claims and is a part of the specification.
6. Claims 32, 34, 37, 44 and 46 are objected to for the use of undefined acronyms. ("WiFi", "IR", "RFID", "PDA"). Claims should not contain acronyms that have not been previously defined in a claim.
7. The numbering of the claims is not consistent with current practice. The numbering convention is a simple numerical, sequential listing, such as: 1. 2. 3... rather than [c1] [c2].

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1-2, 4-5, 8, 10, 13-17, 20, 25-26, 29-30, 32, 34-38, 40, 44-49, 51, 53-54, 57 and 59-60**

are rejected under 35 U.S.C. 102(e) as being anticipated by Stevens (US Pub. No. 2004/0014457).

10. **Claim 1:** Stevens discloses

- *associating an identifier with a first device;* (P[0044]: user device is associated with the same ID number as user profile)
- *communicating said identifier to a first device reader; and,* (P[0047]: the device transmits a request through the system for the user profile associated with the ID number for the user).
- *comparing at least one first user profile associated with said first device with at least one second user profile associated with a second device.* (P[0048]: other user profiles are compared)

11. **Claim 38:** Stevens discloses

- *a plurality of devices;* (Fig 1)
- *at least one device reader capable of communicating with said plurality of devices;* (Fig 1)
- *a profile database comprising a first at least one profile per a first associated user;* (P[0036]: profiles stored in databases located on servers)
- *a server configured to compare said first at least one profile with a second at least one profile per a second associated user and produce a match result wherein said server is*

coupled with said profile database and is configured to obtain information from said at least one device reader; and, (P[0043])

- *a plurality of computers coupled to said server via a communications network. (Fig 1)*

12. Claim 59: Stevens discloses in P[0013]:

- *a first device and a second device capable of directly communicating;*
- *a first at least one profile per a first associated user of said first device;*
- *a second at least one profile per a second associated user of said second device wherein said first device is configured to compare said first at least one profile with said second at least one profile and produce a match result.*

13. Claims 2, 10, 13, 14, 15, 16, 20, 35, 36, 48, 49, 60: In P[0058], Stevens discloses credit card information stored on the device that is transmitted and recognized for payment. Biometric verification is performed by comparing the biometric on the device and where the match is verified by the salesperson.

14. Claims 4, 25, 29, 30, 32, 45, 46, 47, 53, 54 and 57: In P[0033], Steven discloses various types of wireless devices where profiles of interests (such as wanted and for sale items) are matched, a user alerted and exchanged. One use includes locating users that can assist during an emergency.

15. Claims 5 and 17: Stevens discloses entering profile information via web pages where the data includes the IP address. (P[0037]).

16. Claim 8: Stevens discloses using GPS to indicate the locations of users. (P[0051]).

17. Claim 26: Stevens discloses biometric verification stored on a server. (P[0036]).

18. Claims 34, 37 and 44: Stevens discloses an infrared sensor (P[0045]) and RF (P[0044]).

19. Claim 40: Stevens discloses a credit card. (P[0007]).

20. Claim 51: Stevens discloses dating. (P[0065]).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. **Claims 3, 11, 12, 18, 19, 21-24, 41, 43, 50, 55, 56 and 61** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US Pub. No. 2004/0014457) in view of Suzuki (US Pat. No. 6,129,274).
23. **Claims 3, 11, 12, 18, 19, 21-24, 41, 43, 50, 55, 56 and 61:** Stevens discloses the method and systems of claims 1, 38 and 59. Stevens does not disclose a loyalty program, digital coupons, offering a discount for information, a purchase history profile, storing a purchase receipt, a smart card, a loyalty card or purchase history, loyalty or coupons profiles.
24. Suzuki, however, discloses an electronic personal shopping system where profile data and transaction history data are stored on a smart card. (Abstract). Suzuki discloses a loyalty program (C1; L58-61); digital coupons (C11; L47-48), offering a discount for information (C1; L58-65: customer transaction information allow a customer to earn incentive points for participation in a discount program), a purchase history profile (C4; L5-6), storing a purchase receipt (C4; L5-6), a smart card (C4; L14-16) and purchase history, loyalty and coupons profiles (C4; L25-32). Suzuki does not explicitly disclose a loyalty card, however, it is obvious that by maintaining shopping histories on an ID card and retrieval of purchases through presentation of the ID card (C7; L57-67), that the card acts as a loyalty card. Further, it is obvious that the ID card functions as a loyalty card when the card is read and prices are adjusted based on the information contained therein. (C7; L24-28). Suzuki discloses storing a purchase receipt (i.e., transaction) in the card (C8; 54-55) and in a server (C2; 20-28).

25. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the loyalty program and purchase transaction histories, as disclosed by Suzuki in the system disclosed by Stevens, for the motivation of providing a method of facilitating point-of-sale retail transactions using a portable IC card which manages personal demographic and shopping data to provide personalized promotions and shopping assistance. (Suzuki; C1; L6-13). Stevens discloses, "In a financial transaction, an entity interested in doing business with the user may be allowed access to the user's stored or linked financial information for the transaction." (P[0015]). Loyalty programs are a well known aspect of financial transactions, therefore, it is obvious to expand Stevens to include such features as purchase tracking and awarding of discounts for the purpose of stimulating repeat purchasing a retailers that offer such programs. Steven's device stores a plethora of information for matching, therefore, matching to a loyalty program for the benefit of the user through the awarding of discounts is obvious.
26. **Claims 6, 7, 9 and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US Pub. No. 2004/0014457) in view of Dinnage et al. (US Pub. No. 2005/0021666, hereafter referred to as "Dinnage").
27. **Claims 6, 7, 9 and 39:** Stevens discloses using GPS to indicate the locations of users. (P[0051]) but Stevens does not disclose scheduling comparing based on a time delay.
28. Dinnage, however, discloses that matching can be initiated by either user action such as immediately after a new user enters their criteria in the database or by a system scheduled means. Scheduled means are not merely based on specific time cycles. (P[0047]).
29. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included scheduling matching, as disclosed by Dinnage, in the system of Stevens for the motivation of permitting a user to determine when to begin matching. Stevens discloses that the device includes "an "on/off" button that instructs the processor 56 to begin or end transmitting signals to and receiving signals from the other activated portable user devices in the area."

(P[0053]). Through the obvious expansion of Stevens to include a scheduling function, the user would be afforded options in how and when he/she exchanges information.

30. **Claims 27 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US Pub. No. 2004/0014457) in view of Collins (US Pat. No. 5,963,951).
31. **Claims 27 and 28:** Stevens discloses the method of claim 1, but does not disclose obtaining payment for access to a device reader or a user profile.
32. Collins, however, discloses a “use fee” from each subscriber. (Abstract).
33. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included fee for access, such as a use fee, as disclosed by Collins, in the system of Stevens for the motivation of generating income from a matchmaking service. Subscription fees are a well known means of ensuring that the clientele using the matchmaking system are seriously looking for romantic prospects.
34. **Claims 31, 33, 42, 52 and 58** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US Pub. No. 2004/0014457).
35. **Claims 31 and 33:** Stevens discloses that the network is capable of communicating via any wireless method known. (P[0044]). Stevens does not specifically disclose Bluetooth or ultrasonic means, however, it is obvious to expand Stevens to include these means as they are well known in the art. One of ordinary skill in the art at the time the invention was made to have included Bluetooth and ultrasonic connections the system disclosed by Stevens for the motivation of providing a method of wireless communication.
36. **Claim 42:** Stevens discloses using credit cards for purchases (P[0007]) but does not disclose cash cards, however, it is obvious to expand Stevens to include cash cards as they are an old and well known form of making financial transactions. One of ordinary skill in the art at the time the invention was made to have included cash cards in the system of Stevens as they are a

common form of making purchases, especially for those who do not like, or are able, to use credit cards.

- 37. Claims 52 and 58:** Stevens discloses profiles for matchmaking, hobbies, financial and medical records exchanges (P[0014]) but does not disclose profiles for employment or feedback, however, it is obvious to expand Stevens to explicitly include employment profiles as Stevens discloses using the device to find other with business interests (P[0016]). Further, it is obvious to expand Stevens to include a feedback profile as these are profiles that complement either a buyer or seller's profile. As Stevens discloses matching buyers and sellers (P[0033]), it is obvious to expand Stevens to include a feedback profile that can be accessed when a user is contemplating a financial transaction with either a buyer or seller. It would be obvious to provide information, such as the authenticity or trustworthiness of a seller's goods, to a buyer prior to the transaction in order to prevent a user from being swindled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 3629

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629